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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF U S WEST
COMMUNICATIONS. INC'S
COMPLIANCE WITH SECTION 271
OF THE TELECOMMUNICATIONS
ACT OF 1996

) Docket No. T-00000A-97-0238

) COVAD'S RESPONSE TO QWEST'S
) APPLICATION FOR WAIVER FROM
) INDEPENDENT AUDIT
)

Dieca Communications, Inc. d/b/a Covad Communications Company ("Covad") files this response in opposition to Qwest Corporation's ("Qwest") application for waiver from an independent audit as required by the Commission's Decision No. 64836 ("Order"). In support of this response, Covad states as follows:

As Qwest correctly notes, in the Order the Commission has required Qwest to undergo a third-party audit to determine whether Qwest's systems are properly working in relation to access to loop qualification data. In support of its request for a waiver, Qwest makes the assertion that CLECs are successfully accessing Qwest's loop qualification data on a non-discriminatory basis. Qwest further contends that earlier speculation about missing loop qualification data has not materialized. Covad's actual experience with Qwest's loop qualification data is simply not consistent with these

unsupported assertions. As detailed below, Covad has experienced measurable difficulties with Qwest's loop qualification data that, in many instances, has resulted in inaccurate or incomplete data regarding a particular loop.

The principal reason Covad receives either inaccurate or incomplete data regarding a particular loop is that Qwest only provides loop information once every thirty days to its wholesale customers. Once each month, Covad will receive a bulk extract from Qwest containing loop information. As Covad will demonstrate below, it is often the case that this data will simply provide no information regarding a loop or will provide inaccurate information regarding a loop. However, the next month's extract may indicate, with updated information, whether the very same loop is qualified.

An error regarding the condition of a particular loop has a direct business impact upon Covad. For example, the reported loop qualification data may indicate that a loop is not capable of supporting DSL (digital subscriber line) service or line sharing (or provides no information about the loop at all) but it later turns out based upon next month's data extract from Qwest that the loop does support DSL or line sharing. This is known as a false negative. In reasonable reliance upon a "false negative", Covad will inform a customer that it cannot provide broadband service. By the time the loop information is updated (with a new extract the next month) and the inaccuracy is discovered, the prospective customer will have been lost to a competing provider. In most instances, that competing provider might well in fact be Qwest. Alternatively, a "false positive" may also occur. In that instance, Covad may, based upon false information that a loop is qualified to support DSL or line sharing, promise a prospective or existing customer that broadband service is available. If it later turns out that service

is not available, the customer dissatisfaction results in lost business opportunities from that customer. If the data were provided in real time or just more frequently than once per month, the chances of a false positive or false negative would decrease substantially.

As it turns out, Qwest provides a real time tool for its own use but not to its wholesale customers. This is blatantly discriminatory. While Qwest only provides bulk raw loop data extracts to its wholesale customers once every 30 days, Qwest provides its own retail customers a real time tool to determine whether a loop is, for example, qualified for DSL service. In short, Qwest favors itself with a real time tool where the risk of a "false positive" or "false negative" and the attendant business loss simply do not occur.

In addition, Qwest's wholesale raw loop data system lags far behind those systems provided by the other regional bell operating companies. Verizon provides Covad with weekly raw loop data extracts. SBC provides Covad with daily raw loop data extracts. Even better, BellSouth provides Covad with a real time loop data tool, similar to Qwest's own retail tool for its own customers.

For these reasons and the reasons set forth below, it is essential that an independent third-party audit be conducted in order to ferret out existing errors and deficiencies in Qwest's loop qualification systems for its wholesale customers.

1. The errors in Qwest's system are measurable.
 - A. For example, during the months of January and February 2005, 14.9% of the customers orders (or lines) Covad compared against the raw loop data extract region wide

simply did not show up in the raw loop data. In Arizona, the rate is also 14.9%.¹ Nonetheless, even though the lines do not show up in the extract, Covad will accept the order on the assumption that the loop will in fact show up as qualified in next month's extract. However, this is often not the case.

A false positive or false negative can occur:

- 1) The initial monthly raw loop data did not reveal that in fact the loop was not sufficiently long enough to support DSL or that the line was fiber rather than copper. This is a false positive.
- 2) The data did not reveal that the loop already carried a third party voice provider and thus it is not possible to provision line sharing. This is a false positive.
- 3) The raw loop data does *not* indicate a loop is *short* enough to support DSL, or perhaps higher speeds of DSL. But, next month's extract the data in fact shows the loop is long enough to support DSL. This is a false negative.

B. With respect to lines that are known to have a third party voice provider, Covad has been able to determine in some instances that it can take anywhere between 7 to 14 days before a third party voice indicator shows up in the data, reflecting that the loop is not available to Covad.

2. In its petition, Qwest contends it has made "significant changes to its Loop Qualification and RLD [raw loop data] Tools". (Qwest petition, p. 4). Qwest has not notified Covad of the nature of these purported changes and how they impact the

¹ Moreover, these lines only install at a 24.5% rate in Arizona (36.7% region wide), with 44.2% (44.9% region wide) getting canceled because the line already has a third party voice provider, and 19.1% (14.6% overall) are canceled for line issues. This data is indicative of false negatives.

accuracy of the data returned when queries are made to Qwest's system. Covad should be notified of the nature of these changes in order to accurately assess whether they contribute to any discrimination in the access to loop qualification data. A third party audit is the best means to determine the nature and extent of any changes to Qwest's systems.

3. In support of its assertion that CLECs are successfully accessing Qwest's loop qualification data, Qwest points to the fact that CLECs are making approximately 10,000 raw loop data queries each month. (Qwest petition, p. 3). This fact does not support Qwest's conclusion. In fact, it supports the opposite conclusion. CLECs who make queries to the raw loop data may do so for any of a number of reasons: a) a CLEC may not agree with the computerized (IMA) preorder "loop qualification" query that may return a false negative for DSL or b) the data may originally reflect a loop is qualified (false positive) but later the order is rejected. In either instance, a manual review of the raw loop data would be necessary to confirm whether a loop is qualified to support DSL.

4. In its petition, Qwest states that Covad "has never stated in any testimony or brief that the categories of information provided by the RLDT [raw loop data tool] are insufficient for it to determine whether a loop meets Covad's technical needs." (citing to Covad's response to a motion to compel in this docket). Qwest conveniently ignores the very next sentence in the response, which provides the full context: "Covad has never stated anything other than that the RLDT returns inaccurate and unreliable information." (emphasis added) Clearly, Qwest would have the Commission conclude that Covad has not experienced problems with the RLDT when, in point of fact, as Covad states in the

response and, as demonstrated above, Covad has detected and experienced measurable errors in the data returned with the RLDT. Consequently, an audit is essential.

WHEREFORE, for the reasons stated above, Covad requests entry of an order (1) denying Qwest's application for a waiver; (2) requiring Qwest to submit its raw loop data systems to a comprehensive independent third-party audit as required under the terms of Commission Decision No. 64836; and (3) requiring Qwest to provide its raw loop data to Covad and other wholesale customers on a real time basis.

RESPECTFULLY SUBMITTED this 11th day of May, 2005.



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